

**House Bill No. 339 Study on the  
Necessity of Judicial Redistricting  
DRAFT Study Plan**

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For the Legislative Council  
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**Proposal Summary:** The Subcommittee may be able to gather sufficient data to determine whether judicial redistricting is necessary but may not be able to gather sufficient data to actually redistrict. The Subcommittee would be able to lay the groundwork for a more indepth study next interim when the significant additional resources that would be needed may be acquired. The timeliness of the study would not be compromised because more than half of the District Court Judges come up for election for 6-year terms in next year's general election, and the Montana Constitution prohibits removing a judge by changing boundaries.

**Possible Council Actions:** Adopt study plan; determine other parties for Subcommittee to work with; set March Subcommittee meeting.

### **Background and History**

House Bill No. 339 (Ch. 338, L. 1999) provides for an interim study of the *necessity* of redistricting the state's judicial districts. The Legislative Council assumed responsibility in May as the appropriate interim committee for this study. Appointments to the Subcommittee were made in September, and the members include Senators Beck, Shea, and Doherty and Representatives Menahan, Sliter, and Noennig.

The court structure in Montana is governed under Article VII of the Montana Constitution. The 1972 Constitutional Convention discussed unification of the courts into a true system, but it resulted in few changes, none of which were structural in nature. Article VII, section 6 (Mont. Const.) grants authority to the Legislature to divide the state into judicial districts, to provide for the number of judges, and to provide that changes in boundaries or number of judges may not "work a removal of any judge from office". District Court jurisdiction, terms, selection, qualifications, forfeiture, removal, and discipline are all constitutional provisions.

Of the current District Court Judges, 28 positions will be up for election for 6-year terms in 2000, as are the three additional judges added in Senate Bill No. 273, (Ch. 454, L. 1999). Of the remaining judges, six are up in 2002 and three in 2004. This will impact when judicial redistricting could be accomplished if recommended and, in turn, when any concomitant costs or savings would occur. Any

change in number or boundaries of judicial districts would require statutory changes that would have to take the sitting judges' terms into consideration, and a transition schedule would have to be adopted.

Based on the constitutional provisions, the Supreme Court has only general supervisory control over the judicial districts, the District Courts remain administratively decentralized. Certain functions have been statutorily vested in the State Court Administrator's Office and certain expenses statutorily delegated to the state, but each judicial district remains administratively autonomous. Judicial salaries and expenses are state expenses. Other District Court costs, such as salary and benefits of Court Clerks, court reporters, youth probation, and District Court employees are statutorily designated as the responsibility of the counties. Costs such as office and court space fall to the counties as well. In a cursory review, it appears that the county costs for new districts include accommodations for a new judge and staff and any additional juvenile probation staff and judicial support staff that were not previously employed within a county, offset by any expenses that a county would have been required to reimburse in its previous judicial district.

As of July 1, 1999, Montana has District Courts in 56 counties organized into 22 judicial districts. The 22nd Judicial District is a recent addition enacted in 1999 by Senate Bill No. 273. The 22nd Judicial District was created by carving out Stillwater, Carbon, and Big Horn counties from the 13th Judicial District. The 13th Judicial District will now be composed solely of Yellowstone County.

Section 3-5-101, MCA, defines distribution of judicial districts across the state. There are seven judicial districts that are each composed of a single county: Silver Bow, Cascade, Flathead, Yellowstone, Gallatin, Lincoln, and Ravalli counties. The remaining multicounty judicial districts range from two to seven counties, with the judicial districts with the most counties in eastern Montana.

The number of judges in each judicial district is provided in 3-5-102, MCA. The 13th Judicial District, Yellowstone County, has five judges. The 4th Judicial District, composed of Missoula and Mineral Counties, has four judges. Three judicial districts have three judges each: the 1st Judicial District composed of Lewis & Clark and Broadwater counties, the 8th Judicial District in Cascade County, and the 11th Judicial District, Flathead County, which recently added a judge who will take office in January 2000. Five districts now have two judges each: Senate Bill No. 273 added an additional judge to the 20th Judicial District (Lake and Sanders counties) who must be elected at the general election to be held in November 2000 and who will take office in January 2001. The remaining 12 districts each have one judge; most of those districts contain at least three counties, and two contain four counties.

House Bill No. 339 provides that the factors that the committee should consider include:

- "(a) the population of the districts as determined by the latest estimates prepared and issued by the United States bureau of the census and made available to the Census and Economic information center of the Montana Department of Commerce;
- (b) each district's case load;
- (c) the relative proportions of civil, criminal, juvenile, and family law cases in each district's case load;

- (d) the extent to which special masters, alternative dispute resolution techniques, and other measures have been used in the districts;
- (e) the distances between county seats in existing districts and any districts that may be proposed by the committee;
- (f) the impact on counties of any changes proposed in the districts; and
- (g) other factors that the committee determines to be significant to the determination of whether the state's judicial districts should be redistricted."

## **Study Plan**

The first part of the study is the gathering of relevant data from the State Court Administrator's Office and other sources. Preliminary caseload data is expected to be available in February or March 2000, and the variables that can be researched through this available data include mileage and caseload by number and type of cases. This information may be analyzed in order to determine if caseload disparity exists. Other data that can be gathered in the meantime include county population estimates, mileage calculations, and county impact data. Annual reports from the Montana Judiciary from 1998 and previous years are available, and the 1999 Annual Report is expected in the spring of 2000.

Staff will prepare a preliminary analysis for the Subcommittee based on available information. Mileage and caseload information will present only a partial picture of the amount of work that is required of a judge. The Subcommittee must decide whether the quality and amount of the data and information are sufficient to determine whether redistricting is necessary and in turn, if there is enough information with which to redistrict. Preliminary staff analysis suggests that sufficient data may present a general picture on caseload disparity, but a true workload analysis necessary to determine judicial workloads is not available at this time, and therefore redistricting itself should be postponed until next interim.

If the data is not sufficient in order to analyze judicial workloads, additional information that is necessary regarding workloads would have to be gathered directly from the counties because most of that information is not gathered at the state level. District Court Judges, Clerks of District Court, court reporters, and juvenile probation officers each may have additional information that affects and reflects upon judicial workloads. County commissioners and treasurers may have additional funding information. Caseload statistics only reveal part of the workload and are not necessarily reported consistently among counties. Different types of cases have different requirements and characteristics, such as whether they are handled formally or informally, supervised or unsupervised, with each circumstance affecting whether a significant amount of time is spent on the case. Cases may be treated differently among judicial districts. There are administrative and other duties and responsibilities that are not reflected in caseload statistics.

The Subcommittee has limited resources at the current time to gather additional workload information but could certainly develop recommendations for the gathering of this data in the future. Depending on the depth of information that the Subcommittee members believe is necessary to determine the necessity

of judicial redistricting, and to actually redistrict, additional time and resources would be necessary. Direct contact with each county would require additional, potentially significant, resources.

The second part of the study could include analysis of the potential ramifications of redistricting, which may include: the election cycles of the judges within the judicial districts and the factors that a potential transition cycle may entail, the potential costs of redistricting to the counties and to the state, and other effects of redistricting. Costs to counties include additional space and equipment and possibly additional court personnel. These direct costs would be offset by any savings that the county would no longer be reimbursing other counties in a former judicial district. Depending on the recommendations that result from the first part of this study, the second part may not be as involved if certain information gathering is deferred until a future interim.

Currently there is a study of court funding authorized through Senate Bill No. 184 (Ch. 584, L. 1999), staffed by the Department of Administration in conjunction with the Department of Revenue that may be useful in gathering data on the costs of redistricting. Recommendations from this study may affect the proportion of judicial redistricting costs that would be the responsibility of the counties or the state. In addition, the experience of the impact of the new 22nd judicial district and the additional judge in the 11th Judicial District may provide some useful impact information.

### **Suggested Work Plan**

1. May 1999: Assumption of study by Legislative Council
2. September 1999: Assignment of Judicial Redistricting Subcommittee
3. January 2000: Presentation of proposed study plan to Legislative Council
4. January through March 2000: Data gathering and preliminary analysis
5. March and April 2000: Subcommittee work sessions, determination of necessity to redistrict and adequacy of information to redistrict; development of preliminary recommendations
6. June 2000: Presentation of preliminary recommendations by Subcommittee to Legislative Council
7. June through September 2000: Additional staff and Subcommittee work as necessary toward development of final recommendations
8. September 15, 1999: Final recommendations adopted by Legislative Council

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